

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1323 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE K.M.MEHTA

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO

A.N. JANI

Versus

STATE OF GUJARAT

Appearance:

MR HJ NANAVATI for Petitioner

MR DA BAMBHANIA for Respondent No. 1

NOTICE SERVED for Respondent No. 2

CORAM : MR.JUSTICE K.M.MEHTA

Date of decision: 29/11/1999

ORAL JUDGEMENT

1. The petitioner No.1 is the President of Gujarat State Technical Education Cl.III Employees' Association and the petitioner No.2 is the General Secretary of the said Association which has been recognised by the State Government by resolution dated 6.6.1972. In this petition after setting out various facts the petitioners

have prayed for issuing writ of mandamus and/or anyother writ, direction or order in the nature of mandamus and to declare the action of the respondents in extending the benefits of selection grade to Craft Instructors working in the Industrial Training Institute and denying the same to the similarly situated Craft Instructors working in Technical High School, Polytechnic and Engineering as being discriminatory and unconstitutional and to further direct the respondents, their agents, officers, servants to award the selection grade post with effect from 1.7.79 to the Craft Instructors (Cl.III) working in the Technical High School and institutions, Engineering College and Polytechnic being run and controlled by the respondent-State and to pay the arrears of pay accordingly to the Craft Instructors as per the Government Resolution issued from time to time.

2. The petitioners' Association are known as Craft Instructors/Instructional Staff of the Technical Education and there are three different courses in Technical Education, namely, Degree course in Engineering, Diploma course in Engineering and Certificate course in the Trade whereas the Degree in Engineering Diploma in Engineering and Industrial Training Institute certificate are given. It was submitted that Engineering College, Polytechnic, Technical High Schools and institutions and Industrial Training Institutes of the State were under the control of Director of Technical Education-respondent No.2 herein, and appointments and recruitments in these institutions were being made by the respondent No.2.

3. It was further alleged that the petitioners were occupying the post of Craft Instructors and they have come to know the anomaly created by the respondent-State in the matter of awarding the selection grade and made a demand and requested the respondent-State to remove the same in a meeting held on 18.9.82 between the representatives of the petitioner-Association and Secretary of Education Department. Thereafter certain correspondences were also exchanged. It was submitted that the Government has treated equals unequally and thereby discriminated the employees similarly situated in matter of awarding selection grade. It was submitted that the rule governing recruitment of Craft Instructors working in the Engineering Colleges, Polytechnic, Technical High Schools and institutions as well in the Industrial Training Institute are same, their qualifications prescribed by rules are also same and even the payscales prescribed by the Government from time to time remain same. It was therefore submitted that as

petitioners are imparting education or instructing the students who are studying in higher degrees than that of ITI there was no reason for the respondent-State in not granting the selection grade post to the employees working in the Engineering Colleges and Polytechnic, Technical High Schools and institutions.

4. I have heard Mr.H.J.Nanavaty and Ms.Harsha Devanani, Ld.Asstt.Government Pleader. On behalf of Government Ms.Harsha Davanani produced a Government Resolution, dated 16.8.1994, which is taken on record. In the said resolution it was considered the recommendations of Pay Commission set up in 1982 by the Government and the explanation on page 8 of the resolution is in relation to amended higher payscale. The said resolution provides various formalities for giving higher higher payscale to various employees who are set out differently. Therefore, Mr.Nanavaty, Ld.advocate for petitioners categorically made a statement that in view of the said resolution dated 16.8.94 the grievances of petitioners do not survive and therefore he expressed his desire that this court may not decide the matter on merits but may be disposed of accordingly.

5. In view of the aforesaid statement of Mr.Nanavaty this petition becomes infructuous and hence disposed of accordingly. Rule is discharged. No costs.

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